



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/567,454

08/14/2006

Matthieu Foissac

13415/202012

4525

23838 7590 11/12/2009

KENYON & KENYON LLP  
1500 K STREET N.W.  
SUITE 700  
WASHINGTON, DC 20005

EXAMINER

COGILL, JOHN M

ART UNIT

PAPER NUMBER

3782

MAIL DATE

DELIVERY MODE

11/12/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/567,454	<b>Applicant(s)</b> FOISSAC ET AL.	
	<b>Examiner</b> JOHN COGILL	<b>Art Unit</b> 3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 August 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 9-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/7/2006</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claims 9-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Regarding claim 9, the phrase "among other things" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "among other things"), thereby rendering the scope of the claim(s) unascertainable.
4. The term "to some extent" in claim 9 is a relative term which renders the claim indefinite. The term "to some extent" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.
5. Claim 16 recites the limitation "the means for passing" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 3,923,216 to Farnbach (Farnbach).

With regard to claim 9, Farnbach discloses a rucksack comprising a bag (26) having a back panel and a belt assembly (30) and a rigid frame (10) secured to the pack and the belt, wherein the bottom portion (16) of the rigid frame has a V-shaped configuration, with an angle less than the angle of a V-shaped pocket (32, see Fig. 3), allowing the belt assembly to pivot angularly (see col. 5, lines 58-59).

With regard to claim 10, the rigid frame is constituted by a flat bar of small thickness to the degree claimed (Fig. 2), and the pocket (32) is a flat pocket applied to the rear of the belt assembly by stitching (Figs. 3-5).

With regard to claim 11, the V-shaped point (at 16) of the frame presents a rounded shape, and the pocket includes a reinforced zone (35, Fig. 4).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 12 and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farnbach in view of US Patent No. 6,290,114 to Berberian (Berberian).

Farnbach discloses substantially the invention, but fails to disclose a stiffener plate decreasing the friction in the pocket.

Berberian discloses a backpack with a V-shaped pouch (116) selectively receiving a rigid member, wherein a plate (inner layer 134) constitutes the inside wall and provides for a lower coefficient of friction ("easy entry and exit," col. 8 ln. 59).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the pocket of Farnbach with the inner plate of Berberian to reduce friction when inserting and removing objects from the pocket, as taught by Berberian.

5. Claims 13-16, 19-20, 22-23, 25-26, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farnbach in view of US Patent No. 5,725,139 to Smith (Smith).

With regard to claims 13-14, 19-20, and 22-23, Farnbach discloses substantially the invention, but fails to disclose releasable fastener means as claimed.

Smith discloses a similar rucksack, wherein releasable fastener means (62, 63, 158) fasten the belt assembly (38) to the rucksack while frame members (52) move freely in pockets (54). A flexible strip (63) has one end secured to the bottom edge of the back of the rucksack in a middle portion thereof is secured in a releasable manner by self-gripping hook and loop to the front of the belt assembly (col. 7, lines 36-50).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the belt and rucksack of Farnbach with the releasable fastener of Smith to provide an alternative means of attaching the backpack components.

With regard to claims 15, 25-26, and 28, Farnbach discloses substantially the invention with padded belt, but fails to disclose the particular shape of waist belt padding or fastening means.

Smith teaches two side pads (150) with the inside edges V-shaped (as at 158, Fig. 3) and a central pad (28) that is substantially v-shaped to engage the space between the side pads, including releasable self-gripping fastener means (63) as claimed. Padding inherently will press and flatten when it is forced against an object, therefor, the contacting ends of the side pad and central pad will perform as claimed during angular pivoting.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the waistbelt pad of Farnbach with the three piece arrangement of Smith to provide an alternative padding means that accommodates a particularly-shaped central portion.

With regard to claim 16, a longitudinal strip (76) is received in a sheath (78) that is secured (stitched) to the rucksack as claimed.

6. Claims 21 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farnbach in view of Berberian as applied to claim 12 above, and further in view of Smith.

Modified Farnbach discloses substantially the invention, but fails to disclose releasable fastener means as claimed.

Smith discloses a similar rucksack, wherein releasable fastener means (62, 63, 158) fasten the belt assembly (38) to the rucksack while frame members (52) move

Art Unit: 3782

freely in pockets (54). A flexible strip (63) has one end secured to the bottom edge of the back of the rucksack in a middle portion thereof is secured in a releasable manner by self-gripping hook and loop to the front of the belt assembly (col. 7, lines 36-50).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the belt and rucksack of Farnbach in view of Berberian with the releasable fastener of Smith to provide an alternative means of attaching the backpack components.

7. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Farnbach in view of Berberian as applied to claim 12 above, and further in view of Smith.

Modified Farnbach discloses substantially the invention with padded belt, but fails to disclose the particular shape of waist belt padding or fastening means.

Smith teaches two side pads (150) with the inside edges V-shaped (as at 158, Fig. 3) and a central pad (28) that is substantially v-shaped to engage the space between the side pads, including releasable self-gripping fastener means (63) as claimed. Padding inherently will press and flatten when it is forced against an object, therefor, the contacting ends of the side pad and central pad will perform as claimed during angular pivoting.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the waistbelt pad of Farnbach in view of Berberian with the three piece arrangement of Smith to provide an alternative padding means that accommodates a particularly-shaped central portion.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN COGILL whose telephone number is (571)270-7458. The examiner can normally be reached on Monday through Friday, 9:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. C./  
Examiner, Art Unit 3782



Application/Control Number: 10/567,454

Page 8

Art Unit: 3782

/Nathan J. Newhouse/

Supervisory Patent Examiner, Art Unit 3782